

3628

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Neifeld IP Law, P.C.
Crystal Plaza 1, Suite 1001
2001 Jefferson Davis Highway
Arlington, VA 22202

ASSISTANT COMMISSIONER FOR PATENTS
WASHINGTON, D.C. 20231

RE: Attorney Docket No.: MEI/3-DAY
Application Serial No.: 09/619,134
Filed: 07/18/2000
Title: Targeted Marketing and Purchase Behavior Monitoring System
Inventor: Day, et al.
Group Art Unit: 3600
Examiner: Poinvil

RECEIVED

SEP 10 2002

SIR:

GROUP 3600

Attached hereto for filing are the following papers:

**Remarks regarding allowed claims from application serial number 08/978,856
(1 page)**
**Notice of Allowance and Fee(s) Due from application serial number 08/978,856
(3 pages)**
Notice of Allowability from application serial number 08/978,856 (4 pages)
Interview Summary from application serial number 08/978,856 (1 page)
Appeal Brief from application serial number 08/978,856 (42 pages)
**Separate clean copy of the allowed claims from application serial number
08/978,856 (4 pages)**

Our check in the amount of \$0.00 is attached covering the required fees.

The Commissioner is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account Number 50-2106. A duplicate copy of this sheet is enclosed.



31518

PATENT TRADEMARK OFFICE

9/11/02
Date

Richard A. Neifeld, Ph.D.
Registration No. 35,299

Y:\Clients\Catalina\MEI3-DAY\Prosecution\CoverLetter020826.wpd



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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08/978,856

11/26/1997

LARRY J. DAY

MI43-002

4953

7590

05/29/2002

EXAMINER

POINVIL, FRANTZY

OLBON, SPIVAK, MCCLELLAND, MAIER &
NEUSTADT, PC
1755 JEFFERSON DAVIS HIGHWAY, 4TH FLOOR
ARLINGTON, VA 22202

ART UNIT

PAPER NUMBER

3628

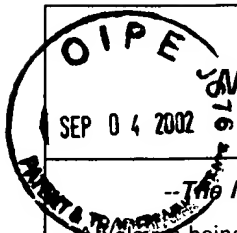
DATE MAILED: 05/29/2002

Determination of Patent Term Adjustment under 35 U.S.C. 154 (b)
(application filed on or after May 29, 2000)

The patent term adjustment to date is 90 days. If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the term adjustment will be 90 days.

If a continued prosecution application (CPA) was filed in the above-identified application, the filing date that determines patent term adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) system. (<http://pair.uspto.gov>)



Notice of Allowability

Application No. 08/978,856	Applicant(s) DAY ET AL.	
Examiner Frantzy Poinvil	Art Unit 2164	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance and Issue Fee Due or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

- 1. ☒ This communication is responsive to the Appeal Brie filed 12/21/01
- 2. ☒ The allowed claim(s) is/are 102-126
- 3. ☒ The drawings filed on Nov 26, 1997 are acceptable as formal drawings.
- 4. ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 - 1. ☐ Certified copies of the priority documents have been received.
 - 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

- 5. ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

- 6. ☐ Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient. A SUBSTITUTE OATH OR DECLARATION IS REQUIRED.
- 7. ☐ Applicant MUST submit NEW FORMAL DRAWINGS
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No. _____.
 - (b) ☐ including changes required by the proposed drawing correction filed _____, which has been approved by the examiner.
 - (c) ☐ including changes required by the attached Examiner's Amendment/Comment or in the Office action of Paper No. _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings. The drawings should be filed as a separate paper with a transmittal letter addressed to the Official Draftsperson.

- 8. ☐ Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Any reply to this letter should include, in the upper right hand corner, the APPLICATION NUMBER (SERIES CODE/SERIAL NUMBER). If applicant has received a Notice of Allowance and Issue Fee Due, the ISSUE BATCH NUMBER and DATE of the NOTICE OF ALLOWANCE should also be included.

Attachment(s)

- | | |
|--|--|
| 1 <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 2 <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3 <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 4 <input checked="" type="checkbox"/> Interview Summary (PTO-413), Paper No. <u>26</u> |
| 5 <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449), Paper No(s). _____ | 6 <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 7 <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material | 8 <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| 9 <input type="checkbox"/> Other | |

Frantzy Poinvil
FRANTZY POINVIL
SENIOR EXAMINER
44 2164

Art Unit: 2164

DETAILED ACTION

1. An Examiner's Amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 C.F.R.

§ 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the Issue Fee.

As per claim 110, "marketing" has been deleted.

As per claim 111, " 1 " has been changed to -- 102 --.

As per claim 112, " 1 " has been changed to -- 102 --.

As per claim 113, " 1 " has been changed to -- 102 --.

As per claim 114, " 1 " has been changed to -- 102 --.

As per claim 115, " 1 " has been changed to -- 102 --.

As per claim 116, " 1 " has been changed to -- 102 --.

As per claim 117, " 1 " has been changed to -- 102 --.

As per claim 118, " 1 " has been changed to -- 102 --.

As per claim 119, " 1 " has been changed to -- 102 --.

As per claim 120, " 1 " has been changed to -- 102 --.

As per claim 121, " 1 " has been changed to -- 102 --.

As per claim 122, " 1 " has been changed to -- 102 --.

Art Unit: 2164

As per claim 124, "122" has been changed to -- 123 --.

As per claim 125, "122" has been changed to -- 123 --.

As per claim 126, "122" has been changed to -- 123 --.

Authorization for this Examiner's Amendment was given in a telephone interview with Robert Mattson (Reg No. 42,850) on March 21, 2002

2. The following is an Examiner's Statement of Reasons for Allowance:

The prior art taken alone or in combination failed to teach or suggest the at least one computer including means for sending information from the customized offer list to the at least one check-out taken in combination in a system for presenting customized special offers to customers, the special offers including targeted offers to a customer selected from a plurality of consumers and for collecting purchasing behavior as recited in independent claim 102.

The prior art taken alone or in combination failed to teach or suggest a supervisory computer networked to the stores level computers, the supervisory computer periodically downloading special offers to the store level computers and generating a customized list of special offers available to that particular customer taken alone in combination with a system for presenting special offers to customers of a chain of stores as recited in independent claim 123.

Mindrum et al. (EPA 0173835 A2) discloses a method and apparatus for dispensing discount coupons.

Powell (WO 97/30411) discloses a system and method for displaying product information in a retail system.

Art Unit: 2164

3. Any comments considered necessary by applicant must be submitted no later than the payment of the Issue Fee and, to avoid processing delays, should preferably **accompany** the Issue Fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frantzy Poinvil whose telephone number is (703) 305-9779. The examiner can normally be reached on "Monday-Friday" from 7:30AM to 6:00PM.

The fax phone number for this Group is (703) 305-0040.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-3900.

Frantzy Poinvil

F Poinvil
FRANTZY POINVIL
PRIMARY EXAMINER
AU 2164

Interview Summary

Application No.

08/978,856

Applicant(s)

DAY ET AL.

Examiner

Frantzy Poinvil

Group Art Unit

2164



All participants (applicant, applicant's representative, PTO personnel):

(1) Frantzy Poinvil

(3) _____

(2) Robert Mattson

(4) _____

Date of Interview Mar 21, 2002Type: a) ☒ Telephonic b) ☐ Video Conferencec) ☐ Personal [copy is given to 1) ☐ applicant 2) ☐ applicant's representative]Exhibit shown or demonstration conducted: d) ☐ Yes e) ☒ No. If yes, brief description:Claim(s) discussed: 102-126

Identification of prior art discussed:

NONEAgreement with respect to the claims f) ☒ was reached. g) ☐ was not reached. h) ☐ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments:

NOTE THE ATTACHED EXAMINER'S AMENDMENT.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

i) ☒ It is not necessary for applicant to provide a separate record of the substance of the interview (if box is checked).

Unless the paragraph above has been checked, THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN ONE MONTH FROM THIS INTERVIEW DATE TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.



Dept.: E/M

OSMM&N File No. 7791-0122-25 CONT

By: RAN/rjh

Serial No. 08/978,856

In the matter of the Application of: LARRY J. DAY ET AL.

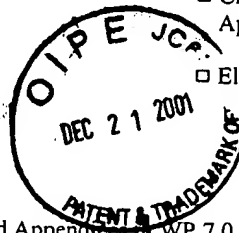
For: TARGETED MARKETING AND PURCHASE BEHAVIOR MONITORING SYSTEM

The following has been received in the U.S. Patent Office on the date stamped hereon:

- ☐ pp. Specification Claims/Drawings Sheets
and pages Application Data Sheet
- ☐ Combined Declaration, Petition & Power of Attorney pages
- ☐ List of Inventor Names and Addresses
- ☐ Utility Patent Application Transmittal. ☐ CPA
- ☐ Notice of Priority ☐ Priority Doc
- ☒ Check for \$320.00 ☒ Dep. Acct. Order Form
- ☐ Fee Transmittal Form
- ☐ Assignment/PTO 1595 pages:
- ☐ Letter to Official Draftsman
- ☐ Letter Requesting Approval of Drawing Changes
- ☐ Drawings sheets ☐ Formal
- ☒ Cover Letter (In Duplicate)
- ☒ Amendment
- ☐ Information Disclosure Statement ☐ PTO-1449
- ☐ Cited References
- ☐ Search Report
- ☐ Statement of Relevancy
- ☐ IDS/Related/List of Related Cases
- ☐ Restriction Response
- ☐ Rule 132 Declaration
- ☐ Petition for Extension of Time
- ☒ Appeal Brief (In Triplicate)
- ☒ Diskette Containing Appeal Brief and Appendices in WP 7.0 Format
- ☐ Issue Fee Transmittal
- ☐ White Advance Serial Number Card
- ☐ Small Entity Status is Claimed
- ☐

Due Date: 12/30/01

I:\atty\LAN\clients\CATALINA\77910122\FR.011220.wpd



NEIFELD Docket No.: MEI/3-DAY-CPA



IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF:
LARRY J. DAY, et al.

GROUP ART UNIT: 3600

SERIAL NO.: 09/619,134

EXAMINER: FRANTZY POINVIL

FILED: 07/18/00

FOR: TARGETED MARKETING AND PURCHASE BEHAVIOR MONITORING SYSTEM

Assistant Commissioner for Patents
Washington, D.C. 20231

REMARKS

Enclosed please find copies of Notice of Allowance and Fee(s) Due, Notice of Allowability, Interview Summary, Appeal Brief, and a separate clean copy of the allowed claims from the allowed application serial number 08/978,856, attorney docket number MEI/2-DAY-CPA. Please note that the decisions of the Board on issues of law are binding upon the examiner. The foregoing application and this application have the same specification and claimed priority filing date.

Respectfully Submitted,

RECEIVED

SEP 10 2002

GROUP 3600



31518

PATENT TRADEMARK OFFICE

9/11/02
Date

Richard A. Neifeld, Ph.D.
Registration No. 35,299
Attorney of Record



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov



NOTICE OF ALLOWANCE AND FEE(S) DUE

OLBON, SPIVAK, MCCLELLAND, MAIER &
NEUSTADT, PC
1755 JEFFERSON DAVIS HIGHWAY, 4TH FLOOR, SPIVAK, MCCLELLAND
ARLINGTON, VA 22202 MAIER & NEUSTADT, P.C.

RECEIVED: 6-3-02

DOCKETING DEPT

Initials/Date Docketed: 6-6-02

Type of Resp(s): 28/ Pub Fee 8-29-02

Due Date(s):

EXAMINER

POINVIL, FRANTZY

ART UNIT

CLASS-SUBCLASS

3628

705-014000

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/978,856	11/26/1997	LARRY J. DAY	7791-0122-25 CRT 7791-0122-25 cont 7791	4953

TITLE OF INVENTION: TARGETED MARKETING AND PURCHASE BEHAVIOR MONITORING SYSTEM

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	YES NO	\$600 \$1280 RN	\$300	\$1580 RN	08/29/2002

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. **PROSECUTION ON THE MERITS IS CLOSED.** THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN **THREE MONTHS** FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. **THIS STATUTORY PERIOD CANNOT BE EXTENDED.** SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE REFLECTS A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE APPLIED IN THIS APPLICATION. THE PTOL-85B (OR AN EQUIVALENT) MUST BE RETURNED WITHIN THIS PERIOD EVEN IF NO FEE IS DUE OR THE APPLICATION WILL BE REGARDED AS ABANDONED.

HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above. If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is changed, pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above and notify the United States Patent and Trademark Office of the change in status, or

B. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check the box below and enclose the PUBLICATION FEE and 1/2 the ISSUE FEE shown above.

☐ Applicant claims SMALL ENTITY status.
See 37 CFR 1.27.

II. PART B - FEE(S) TRANSMITTAL should be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). Even if the fee(s) have already been paid, Part B - Fee(s) Transmittal should be completed and returned. If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Box ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

PART B - FEE(S) TRANSMITTAL



Complete and send this form, together with applicable fee(s), to: **Mail** Box ISSUE FEE
Commissioner for Patents
Washington, D.C. 20231
Fax (703)746-4000

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 4 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Legibly mark-up with any corrections or use Block 1)

7590 05/29/2002

OLBON, SPIVAK, MCCLELLAND, MAIER &
 NEUSTADT, PC
 1755 JEFFERSON DAVIS HIGHWAY, 4TH FLOOR
 ARLINGTON, VA 22202

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

Certificate of Mailing or Transmission

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Box Issue Fee address above, or being facsimile transmitted to the USPTO, on the date indicated below.

(Depositor's name)
(Signature)
(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/978,856	11/26/1997	LARRY J. DAY	M143-002	4953

TITLE OF INVENTION: TARGETED MARKETING AND PURCHASE BEHAVIOR MONITORING SYSTEM

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	YES <i>No</i>	\$640 <i>\$1280</i>	\$300	\$940	08/29/2002

EXAMINER	ART UNIT	CLASS-SUBCLASS
POINVIL, FRANTZY	3628	705-014000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

- ☒ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.
- ☒ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47) attached. Use of a Customer Number is required.

2. For printing on the patent front page, list (1) the names of up to 3 registered patent attorneys or agents OR, alternatively, (2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

1. *Neifeld IP Law, PC*
 2. _____
 3. _____

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. Inclusion of assignee data is only appropriate when an assignment has been previously submitted to the USPTO or is being submitted under separate cover. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

(B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent)

☐ individual ☒ corporation or other private group entity ☐ government

4a. The following fee(s) are enclosed:

4b. Payment of Fee(s):

- ☒ Issue Fee
- ☒ Publication Fee
- ☒ Advance Order - # of Copies *10*

- ☒ A check in the amount of the fee(s) is enclosed.
- ☐ Payment by credit card. Form PTO-2038 is attached.
- ☒ The Commissioner is hereby authorized by charge the required fee(s), or credit any overpayment, to Deposit Account Number *50-2106* (enclose an extra copy of this form).

Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee to the application identified above.

(Authorized Signature)

(Date)

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, Washington, D.C. 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, Washington, DC 20231.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

TRANSMIT THIS FORM WITH FEE(S)